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6

7
8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation)	NO. AC-96-18
12 Against:)	
)	
13 NORMAN POPLOWITZ)	<u>DEFAULT DECISION AND</u>
14 4950 Haverhill Commons)	<u>ORDER OF THE BOARD</u>
Circle, #24)	
14 West Palm Beach, FL 33417)	[Gov. Code §11520]
)	
15 Certified Public Accountant)	
16 Certificate No. 42803)	
)	
17 Respondent.)	

18 **STATUTES**

19 1. The California State Board of Accountancy of the
20 Department of Consumer Affairs ("Board") is authorized to revoke
21 respondent's Certified Public Accountant Certificate pursuant to
22 section 5100 of the California Business and Professions Code,
23 which provides that the Board may revoke, suspend or refuse to
24 renew any permit or certificate issued by the Board.

25 2. California Government Code section 11506(b)
26 provides, in pertinent part, that the respondent shall be
27 entitled to a hearing on the merits if he files a notice of

1 defense, and any such notice shall be deemed a specific denial of
2 all parts of the accusation not expressly admitted. Failure to
3 file such notice shall constitute a waiver of respondent's right
4 to a hearing, but the agency in its discretion may nevertheless
5 grant a hearing.

6 3. California Government Code section 11520(a)
7 provides, in pertinent part, that if the respondent fails to file
8 a notice of defense or to appear at the hearing, the agency may
9 take action based upon the respondent's express admissions or
10 upon other evidence and affidavits may be used as evidence
11 without any notice to respondent.

12 4. Business and Professions Code section 5100
13 authorizes the Board to impose discipline upon a licensee based
14 upon unprofessional conduct, including for the reasons specified
15 therein as well as for violations of the Accountancy Act or the
16 Board's rules and regulations.

17 5. Section 5107 provides, in part, that the Board may
18 request the administrative law judge, as part of the proposed
19 decision in a disciplinary proceeding, to direct any holder of a
20 permit or certificate found in violation of section 5100(c) to
21 pay to the Board all reasonable costs of investigation and
22 prosecution of the case, including, but not limited to,
23 attorney's fees.

24 6. Under California Business and Professions Code
25 section 118, the suspension, expiration, or forfeiture by
26 operation of law of a license issued by the Board, or its
27 suspension, forfeiture, or cancellation by order of the Board or

1 by order of a court of law, or its surrender without the written
2 consent of the Board, shall not, during any period in which it
3 may be renewed, restored, reissued, or reinstated, deprive the
4 Board of its authority to institute or continue a disciplinary
5 proceeding against the licensee upon any ground provided by law
6 or to enter an order suspending or revoking the license or
7 otherwise taking disciplinary action against the license on any
8 such ground.

9 JURISDICTION AND FINDINGS OF FACT

10 Jurisdiction

11 7. On or about May 10, 1985, Certified Public
12 Accountant Certificate No. 42803 was issued by the Board to
13 Norman Poplowitz ("respondent"). The certificate expired on
14 April 1, 1994, and was delinquent until respondent's renewal form
15 and fee were processed on April 23, 1994. At that time, his
16 certificate renewal was denied and he was issued a 150-day
17 temporary license pursuant to Welfare & Institutions Code section
18 11350.6. The temporary license expired on September 20, 1994,
19 and the CPA certificate was, and remains suspended by the terms
20 of Welfare Institutions Code section 11350.6, effective September
21 20, 1994.

22 8. On or about April 30, 1996, Complainant Carol B.
23 Sigmann, in her official capacity as Executive Officer of the
24 Board, filed Accusation No. AC-96-18 against Norman Poplowitz. A
25 copy of the Accusation is attached hereto as Annex A and
26 incorporated herein as though fully set forth.

27 9. On or about May 2, 1996, Patricia Mota, an

1 employee of the Office of the Attorney General, sent by regular
2 mail a copy of Accusation No. AC-96-18, Statement to Respondent,
3 Government Code sections 11507.5, 11507.6, and 11507.7, the
4 Notice of Defense form, and a Request for Discovery, to
5 respondent's address of record with the Board, which, effective
6 September 1994, was and is 4950 Haverhill Commons Circle, #24,
7 West Palm Beach, FL 33417. In or about May 1996, the
8 aforementioned documents were returned to the Office of the
9 Attorney General marked "Returned to Sender" and "Attempted - Not
10 Known" by the USPS and "Not at This Address!".

11 On or about May 21, 1996, Ms. Mota again served the
12 above-described "accusation package" by mailing it to respondent
13 at the above-described address of record by certified mail. On
14 or about June 25, 1996, the aforementioned documents were
15 returned to the Office of the Attorney General marked "Refused"
16 by the U.S. Postal Service.

17 The above-described service was effective as a matter
18 of law pursuant to the provisions of California Government Code
19 section 11505, subdivision (c).

20 10. Respondent has failed to file a Notice of Defense
21 within 15 days after service upon him of the Accusation and
22 therefore waived his right to a hearing on the merits of
23 Accusation No. AC-96-18.

24 Findings of Fact

25 Pursuant to its authority under Government Code section
26 11520, and based on the evidence before it, the Board finds that:

27 11. Respondent practiced as a certified public

1 accountant in the state of California. His address of record as
2 reflected on his letterhead, and in Board records prior to
3 September 1994, was: Norman Poplowitz, Certified Public
4 Accountant, 10 Carnelian Way, San Francisco, California 94131,
5 Telephone: 415-550-7000.

6 12. Respondent failed to file client Hanson's 1993
7 income tax returns. Respondent withheld the records necessary
8 for Mr. Hanson to obtain representation elsewhere.

9 13. Respondent failed to provide accounting services,
10 that is, he failed to produce financial statements, for client
11 A.J. Christian's Fine Jewelers. Respondent withheld the
12 company's books and records. The services were prepaid with
13 jewelry from the client's store.

14 14. Respondent failed to file client Vavasour's 1993
15 income tax returns. Respondent withheld the records necessary
16 for Vavasour to obtain service elsewhere.

17 15. Respondent failed to file client Dunn's 1991
18 personal and related non-profit corporation income tax returns.
19 Respondent billed Ms. Dunn and received payment for these
20 services, but failed to provide her with the returns.

21 16. Respondent failed to file an amended corporation
22 income tax return for client Chubak for the fiscal year ended
23 June 30, 1990. Respondent withheld the records necessary for Mr.
24 Chubak to obtain service elsewhere.

25 17. Respondent grossly understated client Rosenthal's
26 estimated tax payments for the tax year 1992, causing penalty
27 assessments totaling \$800.

1 18. Respondent failed to perform tax services for
2 which he had been engaged in February 1991 by Chester Manning.
3 When asked, beginning in 1992, to return the taxpayer's records,
4 respondent failed to respond to the request.

5 19. In or about June 1994, respondent closed his
6 accounting office in California and moved to West Palm Beach,
7 Florida, where he obtained an unpublished telephone number. He
8 failed to notify his clients of his whereabouts and neither made
9 arrangements to continue his representation of them, nor did he
10 withdraw from his representation of them.

11 20. Respondent failed to change his address of record
12 with the Board until September 1994--and then only after Board
13 investigators had, through their investigative efforts, located
14 and contacted him in Florida.

15 21. A subsequent attempted contact by letter sent by a
16 Board representative to a Florida address obtained from the
17 Monterey County District Attorney's office resulted in no
18 response from respondent.

19 22. On July 3, 1993, respondent was required to attend
20 an Administrative Committee Investigative Hearing (ref. Code
21 section 5020) and was ordered, based upon deficiencies detected
22 in the committee's review of a compilation report submitted by
23 the licensee, to complete specific continuing education in order
24 to contribute to his professional competence. Pursuant to Board
25 Rule 87.5(a)(2) and (3), respondent was ordered to complete 24 of
26 his required 80-hour continuing education requirement for the
27 licensing period April 1, 1992 through March 31, 1994, by

1 December 31, 1994, in the following areas:

2 Financial Preparation for Non-public Entities: 8 hours;
3 FASB Update: 8 hours; and
4 Compilations and Reviews: 8 hours.

5 Respondent was provided forms on which to report course
6 participation.

7 23. Respondent failed to submit evidence to the
8 committee that he had completed the ordered continuing education.
9 The evidence was not even forthcoming after two notices in 1995
10 that the evidence had not been received. Further, respondent
11 failed to produce the evidence at a subsequent appearance before
12 the committee in April 1995.

13 24. At the time of this decision, the Board's costs of
14 investigation and prosecution of this matter are \$ 15,910.39 .

15 Findings in Aggravation of Penalty

16 25. Respondent's failure to timely perform services
17 and his failure to return client records seriously compromised
18 his clients' ability to obtain services elsewhere, as well as
19 resulting in penalties and other financial harm to clients.

20 26. Respondent failed to respond to the Board as it
21 was investigating the complaints of several of his clients,
22 compromising the Board's ability to mitigate or ameliorate the
23 damages being suffered by his clients.

24 27. Respondent failed to change his address of record
25 with the Board, exacerbating injury to his clients and hampering
26 the Board's efforts on their behalf.

27 28. Respondent callously disregarded his client's
interests, evidenced by his failure to properly store, and

1 failure to return, client records and by his inability to locate
2 some of those records to date.

3 29. Respondent abandoned his clients mid-engagement
4 with no notice to them, seriously compromising his clients'
5 interests and evidencing his total disregard of his professional
6 responsibility toward them.

7 DETERMINATION OF ISSUES

8 1. Respondent is subject to disciplinary action
9 pursuant to section 5100 of the California Business and
10 Professions Code as established in the jurisdictional findings in
11 paragraphs numbers 7 through 10, above.

12 2. Respondent is subject to disciplinary action
13 pursuant to section 5100(c) of the California Business and
14 Professions Code on the grounds of gross negligence by reason of
15 the Findings of Fact numbers 11 through 20, in that, with respect
16 to each of the clients and with respect to all of them,
17 respondent's conduct in failing to represent his clients and
18 failing to complete work he had contracted to perform constitutes
19 an extreme departure from the standard of practice, in each
20 instance and in all of them, and cause for revocation has thereby
21 been established, separately and severally.

22 3. Respondent is subject to disciplinary action
23 pursuant to section 5100 of the California Business and
24 Professions Code on the grounds of unprofessional conduct by
25 reason of the Findings of Fact numbers 11, 12, and 14 through 20,
26 because of his failure to observe professional standards and
27 properly represent and provide services with respect to clients

1 Hanson, Vavasour, Dunn, Rosenthal, Manning and Chubak, and cause
2 for revocation of respondent's license has thereby been
3 established, separately and severally.

4 4. Respondent is subject to disciplinary action
5 pursuant to section 5100(h) of the California Business and
6 Professions Code by reason of the Findings of Fact numbers 11
7 through 20, in that he breached his fiduciary responsibility with
8 respect to each of said clients, and cause for revocation of
9 respondent's license has thereby been established, separately and
10 severally.

11 5. Respondent has engaged in unprofessional conduct
12 under section 5100(f) of the California Business and Professions
13 Code in conjunction with Code section 5037(b) and Board Rule 68
14 for his failure to return, and his unlawful retention of the
15 records of each of the clients, by reason of the Findings of Fact
16 numbers 11 through 14, 16, 18, and 19 above, and cause for
17 revocation has been established, separately and severally.

18 6. Respondent has engaged in unprofessional conduct
19 under section 5100(c) of the California Business and Professions
20 Code, by reason of the Findings of Fact numbers 11 through 16, 18
21 and 19 above, in that his conduct in abandoning each of his
22 clients constitutes an extreme departure from the standard of
23 practice, and cause for revocation has been established,
24 separately and severally.

25 7. Respondent is subject to disciplinary action
26 pursuant to Board Rule 3 in conjunction with section 5100(f) of
27 the California Business and Professions Code for the wilful

1 violation of a Board Rule for failing to maintain his address of
2 record with the Board, by reason of the Findings of Fact numbers
3 11, 19, 20 and 21 and cause for revocation has been established,
4 separately and severally.

5 8. Respondent is subject to disciplinary action
6 pursuant to Board Rule 87.5 in conjunction with section 5100(f)
7 of the California Business and Professions Code for the wilful
8 violation of a Board Rule for his failure to comply with an order
9 to complete specified continuing education, by reason of the
10 Findings of Fact numbers 22 and 23 and cause for revocation has
11 been established, separately and severally.

12 9. Each of the Findings in Aggravation of Penalty in
13 paragraphs 25 through 29 above, and all of them, provide further
14 support for the imposition of the penalty of revocation of
15 licensure.

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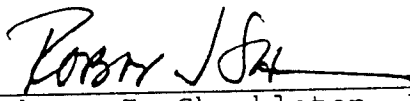
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ORDER OF THE BOARD OF ACCOUNTANCY

Certified Public Accountant Certificate number 42803, heretofore issued to respondent Norman Poplowitz, is hereby revoked. An effective date of September 6, 1996, has been assigned to this Order.

Pursuant to California Government Code section 11520, subdivision (b), respondent is entitled to make any showing by way of mitigation; however, such showing must be made in writing to the Board of Accountancy, 2000 Evergreen Street, Suite 250, Sacramento, California 95815, prior to the effective date of this decision.

Made this 6th day of August, 1996.


Robert J. Shackleton, President
Board of Accountancy
Department of Consumer Affairs

JCW:pam
(6/25/96)

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9 DEPARTMENT OF CONSUMER AFFAIRS
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11 In the Matter of the Accusation) NO. AC-96-18
Against:)
12)
NORMAN POPLOWITZ) ACCUSATION
13 4950 Haverhill Commons)
Circle, #24)
14 West Palm Beach, FL 33417)
Certified Public Accountant)
15 Certificate No. 42803)
16 Respondent.)
17

18 Complainant Carol B. Sigmann, as cause for disciplinary
19 action, alleges:

20 1. Complainant is the Executive Officer of the
21 California Board of Accountancy ("Board") and makes and files
22 this accusation solely in her official capacity.

23 LICENSE INFORMATION

24 2. On or about May 10, 1985, Certified Public
25 Accountant Certificate No. 42803 was issued by the Board to
26 Norman Poplowitz ("respondent"). The certificate expired on
27 April 1, 1994, and was delinquent until his renewal form and fee

1 were processed on April 23, 1994. At that time, his certificate
2 renewal was denied and he was issued a 150-day temporary license
3 pursuant to Welfare & Institutions Code Section 11350.6. The
4 temporary license expired on September 20, 1994 and the CPA
5 certificate was, and remains suspended by the terms of Welfare &
6 Institutions Code Section 11350.6 effective September 20, 1994.

7 STATUTES, REGULATIONS, AND PROFESSIONAL STANDARDS

8 3. At all times material herein, section 5100 of the
9 California Business and Professions Code (hereinafter "Code") has
10 provided in pertinent part that "(a)fter notice and hearing, the
11 Board may revoke, suspend or refuse to renew any permit or
12 certificate" issued by the Board for unprofessional conduct,
13 including but not limited to:

14 5100 (c) Dishonesty, fraud, or gross negligence in the
15 practice of public accountancy.

16 5100 (f) Willful violation of the Accountancy Act or any
17 rule or regulation promulgated by the board.

18 5100 (h) Fiscal dishonesty or breach of fiduciary
19 responsibility of any kind.

20 4. Code section 5037(b) provides that a licensee
21 shall furnish to a client or former client, upon request and
22 reasonable notice, certain records defined therein. The Board's
23 regulations, codified in Title 16 of the California Code of
24 Regulations, provide, in section 68, that a licensee, after
25 demand by or on behalf of a client, shall not retain client

26 ///

27 ///

1 records.^{1/} Although, in general the accountant's working papers
2 are the property of the licensee, if such working papers include
3 records which would ordinarily constitute part of the client's
4 books and records and are not otherwise available to the client,
5 then the information on those working papers must be treated the
6 same as if it were part of the client's books and records.

7 5. Board Rule 3 provides that "it shall be mandatory
8 for every permit holder to file, in writing, with the board at
9 the time of the payment of his or her renewal fee his or her
10 address and business connections and to notify the board, in
11 writing, within 30 days of any change thereof occurring during
12 the renewal period."

13 6. Board Rule 87(a) requires that a licensee complete
14 at least 80 hours of qualifying continuing education during every
15 two-year period immediately preceding permit renewal. Board Rule
16 87.5(a) provides that, following an investigation or hearing
17 conducted by the Board's administrative committee held pursuant
18 to Code section 5020, the committee, as appropriate, may order a
19 licensee to:

- 20 (1) complete additional (to the standard 80-hour
21 requirement) continuing education which will contribute
22 to the licensee's professional competence;
23 (2) complete part of the required 80 hours in specific
24 areas; and/or
25 (3) complete part or all of the standard 80 hours, or part
26 or all of specified courses ordered under this section,
27 by a specified date.

26 1. The Board's rules, codified at Title 16 of the
27 California Code of Regulations in Sections 1-99, are hereinafter
referred to as "Board Rule." Thus, Section 68 is Board Rule 68.

1 Board Rule 87.5(b) provides that the failure of a
2 licensee to comply with an order by the committee made under this
3 section constitutes cause for disciplinary action under Code
4 section 5100.

5 7. Board Rule 52^{2/} provides in part that a licensee
6 shall respond to any inquiry by the Board or its appointed
7 representatives. The response shall include making available all
8 files, working papers and other documents requested. Failure to
9 respond to the inquiry within 30 days constitutes a violation of
10 section 5100(f) of the Accountancy Act. Any inquiry by the Board
11 requiring a response pursuant to this section shall be in
12 writing.

13 8. Pursuant to Code section 118(b), the suspension,
14 expiration, or forfeiture by operation of law of a license issued
15 by the Board shall not during any period within which it may be
16 renewed, restored, reissued or reinstated, deprive the Board of
17 its authority to institute or continue a disciplinary proceeding
18 against the licensee upon any ground provided by law or to enter
19 an order suspending or revoking the license or otherwise taking
20 disciplinary action against the licensee on any such ground.

21 9. Welfare and Institutions Code Section 11350.6
22 provides, *inter alia*, in the circumstances set forth therein, for
23 the enforcement of a support order judgment through the
24 withholding of, or suspension of, a professional license by a
25 licensing board.

26
27 2. This rule was formerly Board Rule 54.1 and was
renumbered effective September 3, 1995.

1 10. U.S. Treasury Department Circular No. 230, section
2 10.22, requires that an individual practicing before the Internal
3 Revenue Service exercise due diligence in preparing, assisting,
4 approving and/or filing returns and other documents with the IRS.

5 Cost Recovery Authorization

6 11. Code section 5107 provides, in part, that the
7 Board may request the administrative law judge, as part of the
8 proposed decision in a disciplinary proceeding, to direct any
9 holder of a permit or certificate found in violation of Code
10 section 5100 (a), (b), (c), (h), (i) or (j), to pay to the Board
11 all reasonable costs of investigation and prosecution of the
12 case, including, but not limited to, attorney's fees.

13 FOR CAUSES FOR DISCIPLINE

14 12. Respondent Norman Poplowitz practiced as a
15 certified public accountant in the state of California. His
16 address of record as reflected on his letterhead and in Board
17 records was: Norman Poplowitz, Certified Public Accountant, 10
18 Carnelian Way, San Francisco, California 94131, Telephone: 415-
19 550-7000. Respondent counted among his clients the following
20 individuals, each of whom filed complaints with the Board
21 regarding respondent, as set forth below:

22 a. James Hanson, Complaint Investigation No. A-94-
23 783^{3/}: Respondent failed to file Mr. Hanson's 1993
24 income tax returns. Respondent withheld the records
25

26 3. Each complaint is assigned a number and is thus
27 identified by the Board as it moves through the investigative
process.

1 necessary for Hanson to obtain representation.
2 elsewhere.

3 b. Mary McGuire on behalf of A.J. Christian's Fine
4 Jewelers, No. A-94-906: Respondent failed to provide
5 accounting services, that is, he failed to produce
6 financial statements, for client A.J. Christian's Fine
7 Jewelers. Respondent withheld the company's books and
8 records. The services were prepaid with jewelry from
9 the client's store.

10 c. Robert Vavasour, No. A-95-56: Respondent failed
11 to file Mr. Vavasour's 1993 income tax returns.
12 Respondent withheld the records necessary for Mr.
13 Vavasour to obtain service elsewhere.

14 d. Ethel Dunn, No. A-95-98: Respondent failed to
15 file Ms. Dunn's 1991 personal and related non-profit
16 corporation income tax returns. Respondent billed, and
17 received payment, for these services, but failed to
18 provide Ms. Dunn with the returns.

19 e. Roozbeh Chubak, President of Infortech Research
20 Studies, No. A-95-162: Respondent failed to file an
21 amended corporation income tax return for the fiscal
22 year ended June 30, 1990. Respondent withheld the
23 records necessary for Mr. Chubak to obtain service
24 elsewhere.

25 f. David Rosenthal, No. A-95-176: Respondent grossly
26 understated Mr. Rosenthal's estimated tax payments for
27 the tax year 1992, causing penalty assessments totaling

1 \$800.

2 g. Chester Manning, No. 408-92: Respondent failed to
3 perform tax services for which he had been engaged in
4 February 1991. When asked, beginning in 1992, to
5 return the taxpayer's records, the respondent failed to
6 respond to the request.

7 13. Incorporating by reference the matters alleged in
8 paragraph 12 above, cause for discipline of respondent's license
9 exists pursuant to Code section 5100(c) (gross negligence) in
10 that, in each instance and in all of them, respondent's conduct
11 with respect to representing his clients and failing to complete
12 work he had contracted to perform, constitutes an extreme
13 departure from the standard of practice.

14 14. Incorporating by reference the matters alleged in
15 paragraph 12 with respect to clients Hanson, Vavasour, Dunn,
16 Rosenthal, Manning and Chubak above, cause for discipline of
17 respondent's license for unprofessional conduct exists in
18 violation of Code section 5100 and applicable professional
19 standards, including Treasury Department regulations.

20 15. Incorporating by reference the matters alleged in
21 paragraph 12 above, cause for discipline of respondent's license
22 in violation of Code section 5100(h) in that respondent breached
23 his fiduciary responsibility to his clients Hanson, A. J.
24 Christian's Fine Jewelers, Vavasour, Dunn, Chubak, Rosenthal, and
25 Manning within the meaning of Code section 5100(h) by failing to
26 perform or complete accounting services he was engaged to
27 perform.

1 16. Incorporating by reference the matters alleged in
2 paragraph 12 above, cause for discipline of respondent's license
3 exists pursuant to Code section 5100(f) in conjunction with Code
4 section 5037(b) and Board Rule 68 for his failure to return, and
5 his unlawful retention of, client records for each of the clients
6 identified in paragraph 12.

7 Respondent's Move to Florida

8 17. On a date known to respondent, and unknown to the
9 Board but believed to be in or about June 1994, respondent closed
10 his accounting office in California and moved to West Palm Beach,
11 Florida, where he obtained an unpublished telephone number. He
12 failed to notify his clients of his whereabouts and neither made
13 arrangements to continue his representation of them, nor did he
14 withdraw from his representation of them.

15 18. Incorporating by reference the matters alleged in
16 paragraphs 12 and 17 above, cause for discipline exists pursuant
17 to Code section 5100(c) (gross negligence) in that, with respect
18 to each of the clients, his conduct in abandoning his clients
19 constitutes an extreme departure from the standard of practice.

20 19. Incorporating by reference the matters alleged in
21 paragraph 17 above, and further alleging that respondent failed
22 to change his address of record with the Board until September
23 1994--and then only after Board investigators had, through their
24 investigative efforts, located and contacted him to Florida--
25 cause for discipline of his license exists under Code section
26 5100(f) in conjunction with Board Rule 3.

27 20. Incorporating by reference the matters alleged in

1 paragraphs 17 and 19, and further alleging that a letter sent by
2 a Board representative to a Florida address obtained from the
3 Monterey County District Attorney's office resulted in no
4 response from the licensee, cause for discipline of respondent's
5 license exists under Code section 5100(f) in conjunction with
6 Board Rule 52.

7 FOR FURTHER CAUSE FOR DISCIPLINE

8 21. On July 3, 1993, respondent was required to attend
9 an Administrative Committee Investigative Hearing (ref. Code
10 section 5020) and was ordered, based upon deficiencies detected
11 in the committee's review of a compilation report submitted by
12 the licensee, to complete specific continuing education in order
13 to contribute to his professional competence. Pursuant to Board
14 Rule 87.5(a)(2) and (3), respondent was ordered to complete 24 of
15 his required 80-hour continuing education requirement for the
16 licensing period April 1, 1992 through March 31, 1994, by
17 December 31, 1994, in the following areas:

18 Financial Preparation for Non-public Entities: 8 hours;
19 FASB Update: 8 hours; and
20 Compilations and Reviews: 8 hours.

21 Respondent was provided forms on which to report course
22 participation.

23 22. Incorporating by reference the matters alleged in
24 paragraph 21, respondent is subject to discipline under Board
25 Rule 87.5(b) in conjunction with Code section 5100(f) in that he
26 failed to submit evidence to the committee that he had completed
27 the ordered continuing education. The evidence was not even
forthcoming after two notices in 1995 that the evidence had not

1 been received. Further, the respondent failed to produce the
2 evidence at a subsequent appearance before the committee in April
3 1995.

4 MATTERS ALLEGED IN AGGRAVATION OF PENALTY

5 23. It is alleged, in aggravation of penalty, that:

6 A. Respondent's failures to timely perform services
7 and/or return client records seriously compromised clients'
8 ability to obtain services elsewhere, as well as resulting in
9 penalties and other financial harm to clients.

10 B. Respondent's failure to respond to the Board and
11 his failure to change his address of record with the Board
12 exacerbated injury to his clients and hampered the Board's
13 efforts on their behalf.

14 C. Respondent's callous disregard as evidenced by his
15 lack of care for the appropriate storage and return of client
16 records and his inability to locate some of those records to date
17 as well as his virtual abandonment of clients mid-engagement with
18 no notice to them has seriously compromised his clients'
19 interests and evidences his total disregard for his professional
20 responsibility toward them.

21 PRAYER

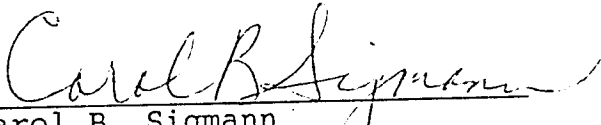
22 WHEREFORE, complainant requests that the Board hold a
23 hearing on the matters alleged herein, and that following said
24 hearing, the Board issue a decision:

- 25 1. Revoking Certified Public Accountant Certificate
26 Number 42803, heretofore issued to respondent
27 Norman Poplowitz;

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2. Awarding the Board costs as provided by statute;
and
3. Taking such other and further action as the Board
deems proper.

DATED: April 30, 1996


Carol B. Sigmann
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

JCW:parn
(4/24/96)